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In the Supreme Court of the United States

OCTOBER TERM, 1936

WORCESTER COUNTY TRUST COMPANY, EXECUTOR,

PETITIONER

vs.

RAY L. RILEY, CONTROLLER OF THE STATE OF CALIFORNIA, W. H. H. GENTRY, INHERITANCE TAX ATTORNEY OF THE STATE OF CALIFORNIA

and

FRANK P. SPROUL, INHERITANCE TAX APPRAISER OF THE STATE OF CALIFORNIA.

RESPONDENTS.

MOTION OF HADASSAH THOMPSON BOYER, EXECUTRIX AND ANCILLARY EXECUTRIX OF THE ESTATE OF MARY MARTHA REED, DECEASED, FOR LEAVE TO FILE BRIEF AS AMICUS CURIAE, AND BRIEF OF AMICUS CURIAE.

JAMES A. REED
OF KANSAS CITY, MO.
DON BARNES
C. E. EICHMANN
OF CEDAR RAPIDS, IOWA

Attorneys for Hadassah Thompson Boyer, Executrix and Ancillary Executrix of the estate of Mary Martha Reed, deceased, as Amicus Curiae.

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No. 922

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RAY L. RILEY, CONTROLLER OF THE STATE OF CALIFORNIA,
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RESPONDENTS.

MOTION FOR LEAVE TO FILE BRIEF AS AMICUS CURIAE.

MAY IT PLEASE THE COURT:

The undersigned, as counsel for Hadassah Thompson Boyer, executrix and ancillary executrix of the estate of Mary Martha Reed, deceased, respectfully moves this Honorable Court for leave to file the accompanying brief in this case as amicus curiae.

JAMES A. REED, OF KANSAS CITY, MO.
DON BARNES, C. E. RICHMANN,
OF CEDAR RAPIDS, IOWA
Counsel for Hadassah Thompson Boyer, Executrix and Ancillary Executrix for the estate of Mary Martha Reed, deceased as amicus curiae.

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RESPONDENTS.

BRIEF OF HADASSAH THOMPSON BOYER, EXECUTRIX AND ANCILLARY EXECUTRIX OF THE ESTATE OF MARY MARTHA REED, DECEASED, AS AMICUS CURIAE.

I

PRELIMINARY STATEMENT

Mary Martha Reed died testate in Portland, Oregon, on September 9, 1935. By her Will, Hadassah Thompson Boyer, residing in the city of Portland, Oregon, was appointed executrix by the Probate Court at Portland. She was also appointed ancillary executrix by the District Court of Linn County, Iowa. The deceased died seized of certain real estate situated in the State of Iowa and certain tangible personal property both in

Cedar Rapids, Iowa, and in the State of Oregon. The deceased also left certain bank deposits and certain intangible personal property in the State of Iowa consisting of bank deposits, stocks, bonds, notes and mortgages.

The Treasurer of the State of Oregon has assessed, and is attempting to collect, Inheritance taxes upon said Iowa intangibles, as is also the Treasurer of the State of Iowa. And, the County Treasurer of Linn County, Iowa, is also attempting to collect a monies and credits tax upon said Iowa intangibles. The tax officials of each state claim the right to assert and collect said taxes upon the theory that at the time of the death of the deceased, said property had its situs in their respective states.

The Amicus Curiae, by reason of such conflicting claims, filed a bill in the nature of a Bill of Interpleader in the United States District Court for the Northern District of Iowa, Cedar Rapids Division and secured an order restraining the tax officials of both states from taking steps to assess, determine or collect inheritance taxes from the said estate of the said Mary Martha Reed, deceased, and also the County Treasurer of Linn County, Iowa, from assessing or attempting to collect a Monies and Credits tax against the said Iowa Intangibles. The bill prayed particularly for a determination of the situs of said property in order to ascertain which ta.. officials are proceeding illegally. The aforesaid case involves similar questions of law as those involved in the instant case pending before your Honorable Court for Writ of Certiorari and the decision of your Honorable Court in the said case will affect the case pending in the District Court of the

United States for the Northern District of Iowa, Cedar Rapids Division.

II

ARGUMENT

That the questions involved in the instant case are of such general importance as to justify their being passed upon by your Honorable Court is manifest when considered in connection with the number of cases now pending or threatened involving the same or similar issues and the hardships resulting from a denial of the remedy sought.

It is apparent that the representatives of estates find themselves in a serious dilemma when confronted by the taxing officials of more than one state, each claiming to be entitled to Inheritance Taxes based either upon an inconsistent claim of domicile or of situs of the property. The injustice sought to be avoided is apparent. There must be some remedy in the Federal Courts against such an unjust result and the most logical and appropriate relief is the application of Section 24 of the Judicial Code, as amended by the Act of January 20, 1936, to the situation. The Dorrance Litigation, (*Hill vs. Martin*, 296 U. S. 393; 80 Law. Ed. 293), warns of possibilities of danger in procedure which cannot be put aside as visionary and calls for the applicability of the Federal Interpleader Act in order to avoid the unjust results of possible multiple inheritance taxation. It is submitted that the Federal Interpleader Act furnishes the only prompt, certain and efficient remedy in the circumstances.

As to the law involved, we cannot add to the able argument presented by the Petitioner.

It is respectfully submitted that the petition for Writ of Certiorari in the instant case should be granted in order that the course of procedure to be followed in a growing list of vexatious cases may be made known for the guidance and protection of Executors and Administrators in the future.

Respectfully submitted,

JAMES A. REED
OF KANSAS CITY, MO.
DON BARNES
C. E. RICHMANN
OF CEDAR RAPIDS, IOWA
Counsel for Hadassah Thompson Boyer, Executrix and Ancillary Executrix of the estate of Mary Martha Reed, deceased.